

# Judiciary Committee

## Testimony re: Raised Bill No. 5525

*An Act Concerning Pardons*

**Submitted by Robert Farr, Chairman - Board of Pardons and Paroles**

**March, 19<sup>th</sup>, 2010**

Good morning, Senator McDonald, Representative Lawlor and honorable members of the Judiciary Committee. I am Robert Farr, Chairman of the Board of Pardons and Paroles. I am offering this testimony in opposition to the current language of raised bill 5525 and to suggest language that would make this bill workable.

The Board often receives applications for full pardons by former offenders who are doing well in the community, but for whom the offense committed is too recent for the Board to be confident that the applicant will not reoffend. In such cases the Board may grant a provisional pardon, which says to potential employers that this person may be suitable for employment, but any future employer should be aware of the offense the applicant committed. If an applicant who received a provisional pardon is arrested on a new charge he will not be considered a first time offender. With the passage of time these applicants often reapply for a full pardon and often receive them.

Some applications, however, are by individuals who have committed very serious crimes. These applicants may never receive a full pardon or may have to wait a lengthy period of time before receiving one, and yet they may appear to have rehabilitated themselves and should be good employees. For example, the Board granted a provisional pardon to an attorney who had been incarcerated and subsequently disbarred for embezzling clients' funds. Upon release from prison he had received work as a part-time substitute school teacher. While he was qualified to be a science teacher in the school system, the Board of Education would not hire him unless he received a provisional pardon. The Board of Pardons and Paroles granted that individual a provisional pardon which would allow him to be employed as a school teacher however, his criminal record would still be maintained as a barrier to being readmitted to the Bar.

In another case, the Board granted a provisional pardon to an applicant who had been convicted of Conspiracy to Commit Murder many years ago, but the applicant had done substantial work to rehabilitate herself. In this case the Board believed she should be employable, but the taking of another's life was too serious to expunge the record. In both of these cases the Board would have been reluctant to grant a provisional pardon if it knew that those individuals would automatically have their records erased without the need for a hearing. Also, the victim and the State's Attorney would not have an opportunity to testify under this new procedure.

Another concern with this bill is that it is unclear whether it would retroactively affect provisional pardons already granted. If it were to do so, it would clearly not be consistent with the actions of the Board at the time of the granting of the provisional pardons, which was a judgment only on the issue of giving relief from barriers to employment, not a full erasure of their records.

The second part of the bill provides that the clerk, upon the granting of a provisional pardon, "shall cause the sealing of the records of such conviction". It is unclear what the intent of this language is, since the rest of the

language still provides that the granting of a provisional pardon does not entitle a person to full erasure of the record of conviction.

In the two cases previously described, why would the attorney or the applicant who conspired to commit a murder have their record sealed when the intent of the Board was not to seal it? The proposed language of the bill is also not clear as to how the applicant would know that a full pardon had been granted. Is the Board supposed to check all state and federal records and then issue a new pardon to the applicant upon the passage of time?

This bill could be useful if it were amended to simply add a new provision to the law that provides for the granting of a ***Special Provisional Pardon***. This Special Provisional Pardon could be converted to an absolute pardon administratively by the Board three years after its issuance for a misdemeanor, and five years for a felony provided there was no objection by the State's Attorney or a victim. The applicant would still have to submit an expedited application to do the conversion but this would simplify the process and provide the applicant with an assurance of the likelihood of eventual erasure. The current language for a provisional pardon should remain. Adding a new section creating a ***Special Provisional Pardon*** would give the Board the option of either granting a provisional pardon, under which an applicant could eventually apply for a full pardon, or the new ***Special Provisional Pardon***, which could be converted to a full pardon after a fixed period of time.

If the committee is interested in pursuing this bill I would be happy to work and assist you on refining the language.

Thank you for your attention.

Sincerely,

*Robert Farr*

Robert Farr, Chairman